

Federal Defenders
OF NEW YORK, INC.

MEMO ENDORSED

Southern District
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February 9, 2021

Via E-mail and ECF

The Honorable Kenneth M. Karas

District Court Judge
Southern District of New York
300 Quarropas Street
White Plains, NY 10601

CARES PETITION

Re: United States v. Michael Mondragon
15 Cr. 00577(KMK)

Dear Judge Karas:

This Petition is written on behalf of Mr. Michael Mondragon. Mr. Mondragon was initially presented on a Violation of Supervised Release ("VOSR") which alleges that on February 22, 2020, he committed the state crime of Assault. Mr. Mondragon had been arrested and charged in Yonkers. At the time of his presentment on the violation he was on state bail. Yonkers subsequently dismissed the charges. Mr. Mondragon was detained at his initial presentment on the VOSR and has been detained for the past twelve months. An Amended Petition dated October 5, 2020, adds an additional violation stemming from the same Yonkers assault. Mr. Mondragon has agreed to admit to a violation and is prepared on the same date to proceed to sentencing on the violation. He consents to enter this plea by video or telephone conference and understands he has an absolute right to be physically present in the courtroom. As a result of the COVID-19 pandemic and the rising cases of the virus in Valhalla we respectfully request that Mr. Mondragon be permitted to admit to the violation and be sentenced remotely via videoconference or teleconference pursuant to Section 15002(b)(2)(A) of the Cares Act.

A remote plea is appropriate under the Cares Act because further delay would cause serious harm to the interests of justice. Mr. Mondragon has been in custody for 12 months, with good time this would calculate to almost 14 months. The Petition has a Guideline range of 18-24 months. As the Guidelines are no longer mandatory and the sentencing ranges for violations were always advisory we will be asking the Court to impose a sentence of time served. Under these

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circumstances, delay could very well cause serious harm to the interest of justice as it could lead to unnecessary and prolonged incarceration for Mr. Mondragon. A further consideration is the overwhelming backlog of cases that has resulted in the multiple court closures since March 2020. At that time there was no way to foresee that the Covid-19 pandemic would essentially close the courts for what has been the past eleven months. Additionally, there is no certainty as to when the Covid-19 rate in Valhalla will drop to a point where court personal will be safe with his physical appearance.

The past year has been most difficult for Mr. Mondragon as well as for all detainees. Recently the rise of Covid-19 cases has caused a number of units to quarantine. As a result, clients have not been allowed access to exercise, the library or family and friend visits. They have been isolated and alone. Attorney video conferences have been cancelled recently as a result of the rise in cases. Chief Judge McMahon's most recent Amended Standing Order, (21 mc-00164 (CM)) dated February 8, 2021, prohibits entry to the courthouses of individuals who **may have been** exposed to COVID or "...who have had close contact within the past 14 days with anyone with COVID."

We respectfully request that the Court allow Mr. Mondragon to admit to his violation and proceed by video or teleconference at the Court's earliest convenience.

Thank you for your consideration.

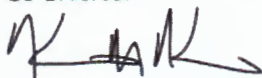
Respectfully,

Susanne Brody,

cc: Jeffrey Coffman, A.U.S.A.
Joseph J. Lombardo, U.S.P.O. Specialist
Mr. Mike Mondragon

Granted. The Court will hold a conference/hearing on 3/5/21 at 1:00 pm. The Parties may participate telephonically in light of the CARES Act and the Court's finding that to delay the proceedings in this case until it is safe to appear in person would not be in the interests of justice, given Mr. Mondragon's sentencing guidelines.

So Ordered.


2/11/21